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## UNITED STATES DEPARTMENT OF COMMERCE

## Patent and Trademark Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/894,211	07/30/97	HAMMER	M 2036.018PCT

PM31/1028  
LEVISOHN LERNER BERGER & LANGSAM  
757 THIRD AVENUE  
NEW YORK NY 10017

EXAMINER

ACKERMAN, W

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 10/28/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>08/894,211</b>	Applicant(s) <b>Hammer</b>
	Examiner <b>William Ackerman</b>	Group Art Unit <b>3626</b>



- Responsive to communication(s) filed on \_\_\_\_\_
- This action is **FINAL**.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

- Claim(s) 1-48 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- Claim(s) \_\_\_\_\_ is/are allowed.
- Claim(s) 1-48 is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The drawing(s) filed on Jul 30, 1997 is/are objected to by the Examiner.
- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All  Some\*  None of the CERTIFIED copies of the priority documents have been
- received.
  - received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \*Certified copies not received: \_\_\_\_\_
- Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- Notice of References Cited, PTO-892
- Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- Interview Summary, PTO-413
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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*Priority*

1. An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification (37 CFR 1:78).
2. If applicant desires priority under 35 U.S.C. 119(e) or 120 based upon a previously filed copending application, specific reference to the earlier filed application must be made in the instant application. This should appear as the first sentence of the specification following the title, preferably as a separate paragraph. The status of non-provisional parent application(s) (whether patented or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. \_\_\_\_\_" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.
3. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

An application in which the benefits of an earlier application are desired must be copending with the prior application or with an application similarly entitled to the benefit of the filing date of the prior application.

The applicant claims priority to U.S. application No. 08/238,299 which was abandoned prior to the filing of the present application.

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*Specification*

4. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.
5. The disclosure is objected to because of the following informalities: Page 7, line 23, fig. 44 is described but the drawings show figs. 44a-44d; page 7, line 24, fig. 45 is described but the drawings show figs. 45a and 45b; and page 7, line 25, fig. 46 is described but the drawings show figs. 46a and 46b..

Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 5, 7, 8, 16-18, 36, 38, 41, 42, 45 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Pipes U.S. Patent No. 4,388,033. Pipes discloses a motion transmission and multiplication system (10) comprising: at least first 12 and second 14 elements extending in the same orientation; and at least a first means 62 linking said first 12 and second 14 elements and being movable with respect to at least one of them, said first linking means 62 being arranged on said first element 12 such that when said first linking means 62 is provided with a driving motion

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(by pinions 22) in a direction of said orientation, said first 12 and second 14 elements are provided with a driven motion with respect to each other. First element 12 telescopically receives second element 14 and first linking means 62 is a flexible member. The speed control is the motor. Third element 16 is telescopically received in the second element 14. Linking means 62 is enclosed in the first element 12. Rollers (35, 43, 51, 57) guide the elements in tracks (36, 44, 52, 58).

System 10 is a conveyor. The room that the system is used in can be illuminated. A toy is anything that can be used for amusement. Any object can be a toy since it depends upon the intent of the person using the device.

8. Claims 1, 2, 5, 7-12, 16-18, 23, 24 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by White U.S. Patent No. 1,456,478. White discloses a motion transmission and multiplication system comprising: at least first 20 and second 23 elements extending in the same orientation; and at least a first flexible means 43 linking said first 20 and second 23 elements and being movable with respect to at least one of them, said first flexible linking means 43 being arranged on said first element 20 such that when said first flexible linking means 43 is provided with a driving motion (by gearwheels 46, 48) in a direction of said orientation, said first 20 and second 23 elements are provided with a driven motion with respect to each other. First 20 and second 23 elements are rigid and telescope in side-by-side tracks. The first, second and third elements are rigid and driven by a screw 16. First 20, second 23, and third 24 elements are shutters.

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***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pipes. Pipes discloses all of the claimed invention except that the motion of the elements can be counter to the driven motion. The difference between the direction of motion is considered to be a matter of engineering choice in design. It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to change the direction of motion of Pipes as a matter of choice in design since applicant has not set forth that the direction of motion solves any stated problem or is for any particular purpose and the device of Pipes works equally as well.

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pipes in view of Sandberg U.S. Patent No.326, 336. Pipes discloses all of the claimed invention except the driving motion being provided by hand motion of said linking means with respect to an end of either of said first and second elements. Sandberg shows the use of a hand crank G in an analogous art for the purpose of allowing hand operation. It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to provide the motion transmission and multiplication system of Pipes with a driving motion provided by hand motion of said linking means with respect to an end of either of said first and second elements as taught by Sandberg in

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order to allow hand operation. Making an automated device operable by hand is not considered to be patentable.

***Allowable Subject Matter***

12. Claims 6, 13-15, 19-22, 25-35, 37, 39, 43, 44, 46 and 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Metz et al., Bradford, Badger, Steidle, Mason, Calhoun, Kmieliauskas, Schweda, Van Fleet, Price, Musto, Karapita, Bernardi, Lombardi, Sargent et al., Andrews, Wu, Cottle, Shen, Chae et al. and Huang are cited to show similar telescoping assemblies.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Ackerman whose telephone number is (703) 308-7908.

  
Anthony Knight  
Supervisory Patent Examiner  
Group 3600

WCA

WGA

October 25, 1998